

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

DARRYL DEAN CAVAZOS

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Case No. 4:07cr13
(Judge Crone)

REPORT AND RECOMMENDATION **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on May 21, 2009 to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Charles Roy.

On January 15, 2002, Defendant was sentenced by the Honorable Hilda G. Tagle to sixty-eight (68) months' custody followed by three (3) years of supervised release for the offense of Felon in Possession of a Firearm. On May 19, 2006, Defendant completed his period of imprisonment and began service of his supervised term.

On April 27, 2009, the U.S. Pretrial Services Officer filed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory condition: (1) the defendant shall not commit another federal, state or local crime. The petition also alleged violations of the following standard conditions: (1) the defendant shall not leave the judicial district without permission of the court or probation officer; (2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month; and (3) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.

The petition alleges that Defendant committed the following acts with regard to the mandatory condition: (1) On April 15, 2009, the defendant pleaded guilty in Kaufman County to evading arrest or detention with a vehicle and was sentenced to jail for six (6) months. The petition also alleges that Defendant committed the following acts with regard to the standard conditions: (1) that defendant left the district without permission as evidenced by his arrest on March 13, 2008 for evading arrest; (2) that defendant failed to submit a monthly report within the first five days of the month for January, February, May, June and July 2008; and (3) that defendant failed to report the arrest until questioned by the U.S. Probation Officer on April 18, 2008.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the violations. The Court recommends that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Judge revoke Defendant's supervised release. The Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months and one (1) day to run consecutively to any sentence of imprisonment that the defendant is currently serving. The Court recommends that Defendant be housed in the USP Terre Haute, Indiana facility for safety reasons. After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing.

Failure to file written objections to the proposed findings and recommendations contained in this report within ten days shall bar an aggrieved party from attacking the factual findings on appeal. *Thomas v. Arn*, 474 U.S. 140, 106 (1985); *Nettles v. Wainwright*, 677 F.2d 404, 408 (5th Cir. 1982) (en banc).

SIGNED this 21st day of May, 2009.

A handwritten signature in black ink, appearing to read "Carlos M. Magent", is written over a horizontal line.